

# HOUSE BILL REPORT

## ESHB 3014

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### As Passed Legislature

**Title:** An act relating to modifying the sales and use tax deferral program for investment projects in rural counties.

**Brief Description:** Modifying the sales and use tax deferral program for investment projects in rural counties.

**Sponsors:** House Committee on Finance (originally sponsored by Representatives Kessler, Morrell and Van De Wege; by request of Governor Gregoire).

#### **Brief History:**

##### **Committee Activity:**

Finance: 2/2/10, 2/9/10 [DPS].

##### **First Special Session**

##### **Floor Activity:**

Passed House: 3/17/10, 87-6.

Senate Amended.

Passed Senate: 3/19/10, 41-2.

House Refuses to Concur.

Senate Amended.

Passed Senate: 3/25/10, 43-0.

House Concurred.

Passed House: 4/2/10, 83-6.

Passed Legislature.

#### **Brief Summary of Engrossed Substitute Bill**

- Extends the rural county sales and use tax deferral program (program) from July 1, 2010 to July 1, 2020. Counties with an unemployment rate which is at least 20 percent above the state average for three years and community empowerment zones are eligible under the program.
- Clarifies retroactively the definition of "manufacturing" related to computer programming and other computer-related services.
- Eliminates computer programming and other computer-related services from the definition of "manufacturing" beginning July 1, 2010.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

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## HOUSE COMMITTEE ON FINANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hunter, Chair; Orcutt, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Condotta, Conway, Ericks, Santos and Springer.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Hasegawa, Vice Chair.

**Staff:** Susan Howson (786-7142).

### **Background:**

The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. Sales tax is paid by the purchaser and collected by the seller. The use tax is imposed on items used in the state that were not subject to the retail sales tax and includes purchases made in other states and from sellers who do not collect Washington sales tax.

The Rural County Sales and Use Tax Deferral Program (program) grants a deferral of sales and use tax for manufacturing, including computer-related businesses, research and development laboratories, commercial testing facilities, and vegetable seed conditioning facilities located in rural counties, Community Empowerment Zones (CEZ), or a county containing a CEZ.

The sales and use taxes on qualified construction and equipment costs for such businesses located in these specific geographic areas are waived when all program requirements have been met and verified. These waiver requirements include: (1) an annual report covering each calendar year that must be filed by March 31 of the following year; (2) a verification by the Department of Revenue (DOR) that all purchases are eligible; (3) use of the facility for qualified activities during the year in which the investment project is certified as operationally complete by the DOR and for each of the following seven years; and (4) that employment requirements have been met for a business located in a CEZ or county containing a CEZ.

This program is scheduled to expire on July 1, 2010.

### **Summary of Engrossed Substitute Bill:**

The rural county sales and use tax deferral program (program) is extended from July 1, 2010 to July 1, 2020. Counties with an unemployment rate which is at least 20 percent above the state average for three years and community empowerment zones (CEZ) are eligible under the program. For the purpose of hiring in CEZs, residents include people living within a county in which the zone is located.

The Department of Revenue (DOR) is required to establish a list of qualifying counties by July 1, 2010, which is effective for 24 months. The list will be updated every two years based on Employment Security Department data.

The definition of "manufacturing" is clarified retroactively to include computer programming and other related services only if the service provides a new, different, or useful substance or article of tangible personal property for sale. Computer programming and other computer related services are eliminated from the definition of "manufacturing" beginning July 1, 2010.

Deferral recipients must complete annual surveys which the DOR will use to complete annual statistical reports to the Legislature and a final outcomes report due December 1, 2019.

Tax deferrals remain in place for up to two years during periods of temporary shutdowns in counties with a population of less than 20,000 people. To qualify for relief from paying deferred taxes during a temporary shutdown, the remaining labor force must be greater than 10 percent of the recipients labor force at the time the deferral was approved by the DOR. If the number of employment positions falls below the 10 percent threshold during the two year period, the amount of deferred taxes outstanding is due immediately. Recipients seeking relief from paying deferred taxes must apply to and be approved by the DOR. A recipient is entitled to this relief only once.

The rural county sales and use tax deferral program expires July 1, 2020.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** This act takes effect July 1, 2010, except for section 3 related to establishing a list of qualifying counties, which takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The rural county sales and use tax deferral program is going to sunset this year and this bill would provide a much needed extension. In 1996 the Legislature changed the definition of a "distressed" county. As a result, there were only three counties that did not qualify. This bill will reduce it to 19 counties and make it based on unemployment numbers. It will provide economic stimulus to the counties that need it most. Narrowing the eligibility will reduce the cost of the program to the state. The program is working. Currently there are 317 firms representing about 33,300 jobs using this program. This bill is an important part of the jobs package the Governor is proposing. It is needed to bring private investment to rural areas.

(In support with concerns) We support this bill on the grounds that it is expiring the current program and creating a smaller, more defined program. However, the bill could be improved. Currently, this bill uses the March 30 date for the annual survey, versus the April

date that is in Substitute House Bill 1597. This bill says it is supposed to attract research and development (R&D) companies, but the R&D tax incentive expires in 2015, while this new incentive expires in 2020, creating a five year disconnect. These dates need to be aligned. Also, there is no provision in the bill or the current program that allows for a temporary suspension of the deferral when a company is temporarily shut down.

(Opposed) None.

**Persons Testifying:** (In support) Representative Kessler, prime sponsor; Heidi Hughes, Office of the Governor; Nick Demerice, Department of Commerce; and Alyson Fouts, Department of Revenue.

(In support with concerns) Amber Carter, Association of Washington Business; and Lori Evans and Mark Brown, Teck Washington.

**Persons Signed In To Testify But Not Testifying:** None.